

There may be a proceeding in equity to enforce the lien given by this section, regardless of the bond and its liability at law. The fact that the land has been sold, is immaterial. Proper parties. *Ridgely v. Iglehart*, 6 G. & J. 51. *Cf. Stem v. Cox*, 16 Md. 534.

Until the court has passed an order as to the proportions to which the representatives of the intestate are entitled, no recovery can be had on the bond. The words "agreeably to the order of the court," construed. *Thompson v. State*, 4 Gill, 165. And see *Ridgely v. Iglehart*, 6 G. & J. 51.

This section implies a preceding order of court before it can be complied with, or a non-compliance can amount to a default. *Jenkins v. Simms*, 45 Md. 538.

Cited but not construed in *Iglehart v. Armiger*, 1 Bl. 519.

See notes to sections 51 and 65.

1904, art. 46, sec. 56. 1888, art. 46, sec. 56. 1860, art. 47, sec. 56.  
1856, ch. 127.

**56.** In all cases in which commissioners appointed under this article shall be ordered by the court to make sale of real estate and in accordance with said order shall offer the said real estate at public auction and the same shall be bid off by some purchaser, and the said purchaser shall refuse or neglect to comply with the terms of sale, it shall be lawful for the commissioners to re-sell the real estate upon the notice contained in the order aforesaid; and if it sell for less than at the first sale, to compel, by suit or action to be instituted in their name as commissioners, the purchaser at the first sale to pay over the difference or loss that may be sustained between the first and second sales; provided, a memorandum be made and signed by the auctioneer at the time of sale, in writing, containing the names of the parties, the amount and terms of sale.

*Ibid.* sec. 57. 1888, art. 46, sec. 57. 1860, art. 47, sec. 57.  
1820, ch. 191, sec. 34. 1898, ch. 457.

**57.** Whenever any person shall be entitled as surviving husband to a life estate in any part of the real estate of an intestate, and the commissioners appointed in virtue of this article shall determine that the estate will admit of division, then the said commissioners shall lay off the part or portion of such surviving husband in and to the said estate, before they shall proceed to divide or value the same; and the same commissioners shall make the ascertainment and location of such part or portion of such surviving husband a part of their return to their commission, and the court shall determine thereon, and confirm or reject the same, as in other cases.

See art. 45, sec. 7.

*Ibid.* sec. 58. 1888, art. 46, sec. 58. 1860, art. 47, sec. 58.  
1820, ch. 191, sec. 35. 1898, ch. 457.

**58.** Whenever any person shall become entitled as surviving husband as aforesaid, and the commissioners shall determine and so certify to the court that the estate cannot be divided without loss and injury to all the parties entitled, and the return of the said commissioners shall be confirmed by the court, and the persons entitled to elect to take the said estate at the valuation made by the commissioners shall all refuse,